

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

MELVIN DAVIS, WAYNE)
ANDERSON, SHAWNETTA)
JORDAN and DAKOTA KING,) **CIVIL ACTION NO.:**
individually and on behalf of all)
others similarly situated,) **2:20-cv-11060-NCE-RSE**
)
Plaintiffs,) **Hon. Nancy G. Edmunds**
)
v.) **Magistrate R. Steven Whalen**
)
MAGNA INTERNATIONAL OF)
AMERICA, INC., et al.)
Defendants.)

**PLAINTIFFS' RESPONSE TO DEFENDANTS'
NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs Melvin Davis and Dakota King (together, “Plaintiffs”), by and through their undersigned counsel, respectfully submit this Response to Defendants’ Notice of Supplemental Authority, submitting *Huang v. TriNet HR III, Inc.*, No. 8:20-CV-2293, 2023 WL 3092626 (M.D. Fla. Apr. 26, 2023). *See* ECF No. 87.

TriNet, a case out of the Eleventh Circuit, is materially dissimilar to the instant matter. First and importantly, the decision in *TriNet* involved a Multiple Employer Plan (MEP) which is fundamentally different from the single employer Plan at issue here. The court was unpersuaded that Plaintiffs' sole expert was knowledgeable in MEPs based on his deposition. *TriNet*, 2023 WL 3092626 at *18. Here, Plaintiffs

provide three experts knowledgeable in single employer plans and imprudent investment damages. The experts base their opinions in part on testimony from Committee members and documents provided by Defendants. Secondly, the RFP allegations in *TriNet* regarded the imprudent processes related to the RFPs, whereas here Plaintiffs provide evidence that show the RFPs did not occur at reasonable intervals in accordance with fiduciary best practices, and no meaningful review of the Plan's investments or Prudential's services occurred despite Prudential's obvious conflicts of interest. In fact, Defendants' belated RFI confirmed recordkeeping fees were too high throughout the Class Period. *See* Plf's Opposition to Summary Judgment, ECF No. 53, at p. 6-12 (experts Geist and Dyson opining and citing the Charbonneau deposition, Wolkove deposition, Brock deposition, 2021 CAPTRUST RFI, 2014 RFP, Plan Fee Summaries, Plan Expense Agreement, and meeting minutes). Ultimately, *Trinet* is unhelpful to the instant matter which involves materially different claims supported by a robust showing of facts.

For these reasons, and for the reasons Plaintiffs set forth in their Opposition, Plaintiffs respectfully request that the Court deny Defendants' Motion for Summary Judgment.

Dated: June 1, 2023

CAPOZZI ADLER, P.C.

/s/ Mark K. Gyandoh

Mark K. Gyandoh
James A. Wells
312 Old Lancaster Road
Merion Station, PA 19066
Telephone: (610) 890-0200
Facsimile: (717) 233-4103
Email: markg@capozziadler.com
jayw@capozziadler.com

Donald R. Reavey
2933 North Front Street
Harrisburg, PA 17110
Telephone: (717) 233-4101
Facsimile: (717) 233-4103
Email: donr@capozziadler.com

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2023, a true and correct copy of the foregoing document was filed with the Court utilizing its ECF system, which will send notice of such filing to all counsel of record.

By: /s/ Mark K. Gyandoh
Mark K. Gyandoh, Esq.